

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0754-AIR-E TCEQ ID: RN100224815 CASE NO.: 33470**  
**RESPONDENT NAME: KM Liquids Terminals, L.P.**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Pasadena Terminal, 530 Witter Street, Pasadena, Harris County

**TYPE OF OPERATION:** Petroleum product/segregated chemical transfer terminal

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on October 8, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  
**TCEQ Enforcement Coordinator:** Ms. Jessica Rhodes, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2879;  
 Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  
**Respondent:** Mr. James Wilson, Regional Environmental Health & Safety Manager, KM Liquids Terminals, L.P., 405 Clinton Drive, Galena Park, Texas 77547  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review  <b>Date(s) of Complaints Relating to this Case:</b> None  <b>Date of Investigation Relating to this Case:</b> July 12, 2006  <b>Date of NOV/NOE Relating to this Case:</b> May 4, 2007 (NOE)  <b>Background Facts:</b> This was a routine investigation. One violation was documented.  <b>AIR</b>  Failed to prevent unauthorized emissions [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 5171, Special Conditions No. 1].	<b>Total Assessed:</b> \$10,000  <b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay  <b>SEP Conditional Offset:</b> \$5,000  <b>Total Paid to General Revenue:</b> \$5,000  <b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor  <b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor  <b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <b>Applicable Penalty Policy:</b> September 2002  <b>Findings Orders Justification:</b> Unauthorized emissions which are excessive emissions events.	<b>Ordering Provisions:</b>  1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)  2) The Order will also require the Respondent to:  a. Within 30 days after the effective date of this Agreed Order, design and implement improvements to procedures to ensure, to the extent practicable, the prevention of product overflow while filling storage tanks which caused the May 31, 2006 emissions event; and  b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Additional ID No(s):: HG0261J

Attachment A  
Docket Number: 2007-0754-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>KM Liquids Terminals, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Ten Thousand Dollars (\$10,000)</b>
<b>SEP Amount:</b>	<b>Five Thousand Dollars (\$5,000)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program</b>
<b>Location of SEP:</b>	<b>Harris County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088



The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	7-May-2007	<b>Screening</b>	10-May-2007	<b>EPA Due</b>	29-Jan-2008
	<b>PCW</b>	30-May-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	KM Liquids Terminals, L.P.
<b>Reg. Ent. Ref. No.</b>	RN100224815
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33470	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0754-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Jessica Rhodes
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$10,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **33% Enhancement** **Subtotals 2, 3, & 7** \$3,300

**Notes** Penalty enhancement due to one 1660-style Agreed Order, two NOV's for the same or similar violations, and two NOV's for unrelated violations. Penalty reduction due to one Notice of Audit.

**Culpability** **No** **0% Enhancement** **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **0% Reduction** **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria.

**0% Enhancement\*** **Subtotal 6** \$0  
\*Capped at the Total EB \$ Amount

Total EB Amounts	\$953
Approx. Cost of Compliance	\$10,000

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$13,300

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount** \$13,300

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$10,000

**DEFERRAL** **0% Reduction** **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** \$10,000

Screening Date 10-May-2007

Docket No. 2007-0754-AIR-E

PCW

Respondent KM Liquids Terminals, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33470

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust:
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 33%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Penalty enhancement due to one 1660-style Agreed Order, two NOVs for the same or similar violations, and two NOVs for unrelated violations. Penalty reduction due to one Notice of Audit.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 33%

Screening Date 10-May-2007

Docket No. 2007-0754-AIR-E

PCW

Respondent KM Liquids Terminals, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33470

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100224815

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health &amp; Safety Code § 382.085(b), and Air Permit No. 5171, Special Condition No. 1

Violation Description

Failed to prevent unauthorized emissions. Specifically, on May 31, 2006 an emissions event resulted when Tank 17-1 overflowed into a spill containment area releasing 11,221 pounds of volatile organic compounds ("VOC") to the atmosphere for a period of 8 hours. The permit allowables of VOC are 0.14 pounds per hour. Since this emissions event was avoidable, KM Liquids failed to meet the demonstrations for an affirmative defense as described in 30 Tex. Admin. Code § 101.222(a).

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment was exposed to significant amounts of pollutants which exceeded levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$10,000

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

One daily event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$953

Violation Final Penalty Total \$13,300

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

Respondent KM Liquids Terminals, L.P.  
Case ID No. 33470  
Reg. Ent. Reference No. RN100224815  
Media Air  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment	\$5,000	31-May-2006	1-Jan-2008	1.6	\$26	\$530	\$556
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$5,000	31-May-2006	1-Jan-2008	1.6	\$397	n/a	\$397
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up containment area and to implement measures designed to prevent product overflow while filling storage tanks. Date required is based on the day of the emissions event. Final date is based on the projected compliance date.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$953

# Compliance History

Customer/Respondent/Owner-Operator: CN602717092 KM Liquids Terminals, L. P. Classification: AVERAGE Rating: 2.09

Regulated Entity: RN100224815 PASADENA TERMINAL Classification: AVERAGE Site Rating: 3.59

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0261J
AIR OPERATING PERMITS	PERMIT	984
PETROLEUM STORAGE TANK	REGISTRATION	27315
REGISTRATION		
AIR NEW SOURCE PERMITS	PERMIT	5171
AIR NEW SOURCE PERMITS	PERMIT	8477
AIR NEW SOURCE PERMITS	PERMIT	15582
AIR NEW SOURCE PERMITS	PERMIT	19712
AIR NEW SOURCE PERMITS	PERMIT	19912
AIR NEW SOURCE PERMITS	PERMIT	25272
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0261J
AIR NEW SOURCE PERMITS	REGISTRATION	75933
AIR NEW SOURCE PERMITS	REGISTRATION	75567
AIR NEW SOURCE PERMITS	REGISTRATION	74333
AIR NEW SOURCE PERMITS	REGISTRATION	75160
AIR NEW SOURCE PERMITS	REGISTRATION	76487
AIR NEW SOURCE PERMITS	REGISTRATION	76519
AIR NEW SOURCE PERMITS	AFS NUM	4820100092
AIR NEW SOURCE PERMITS	REGISTRATION	79282
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD070137161
GENERATION		
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION #	30772
GENERATION	(SWR)	
STORMWATER	PERMIT	TXR05N324
STORMWATER	PERMIT	TXR05U654
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION #	30772
	(SWR)	
WASTE WATER GENERAL PERMIT	PERMIT	TXG670019

Location: 530 WITTER ST, PASADENA, TX, 77506 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 08, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 08, 2002 to May 08, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jessica Rhodes Phone: 512-239-2879

## Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? Yes
- If Yes, who is the current owner? KM Liquids Terminals, L.P.
- If Yes, who was/were the prior owner(s)? Kinder Morgan Liquids Terminals
- When did the change(s) in ownership occur? 12/08/2004

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 08/29/2003 1660 Styled ADMINORDER 2003-0343-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
- Description: Failure to submit Title V Deviation report in a timely manner.
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/22/2002	(78946)
2	07/23/2002	(2770)
3	01/13/2003	(IE0019101001001)
4	02/21/2003	(11665)
5	07/27/2004	(280957)
6	08/11/2004	(251128)
7	08/23/2004	(261947)
8	08/29/2005	(405934)
9	03/08/2006	(450115)
10	05/17/2006	(463933)
11	05/17/2006	(465626)
12	05/23/2006	(465782)
13	06/02/2006	(481256)
14	06/30/2006	(484076)
15	07/28/2006	(486975)
16	07/31/2006	(489238)
17	08/14/2006	(457292)
18	10/27/2006	(515175)
19	01/04/2007	(534584)
20	05/04/2007	(487160)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/26/2002	(2770)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(H) TEXAS HEALTH AND SAFETY CODE 382.085		
Description:	Failure to minimize emissions.		
Date:	08/30/2005	(405934)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP# 0984, SC17(A) PERMIT NSR Permit# 5171, SC#3		
Description:	Failure to operate without permit by rule authorization		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP# 0984, SC 17(A) PERMIT NSR Permit.No. 49042, SC #4		
Description:	Failure to implement the fugitive monitoring program		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(b)(1)(ii)		
Rqmt Prov:	OP FOP# 0984, SC 1(A)		
Description:	Failure to perform a yearly seal gap inspection for T130-8		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A)		
Rqmt Prov:	OP FOP # 0984, General Terms and Conditions		
Description:	Failure to include in the deviation report two spill incidents of unauthorized emissions which occurred on 8/5/04 and 1/5/05.		
Date:	03/09/2006	(450115)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)(11) 30 TAC Chapter 101, SubChapter F 101.201(b)(8) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to maintain complete records of emission events.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.211(b)(9) 5C THC Chapter 382, SubChapter A 382.085(b)		

Description: Failure to maintain complete records of Scheduled Maintenance, Startup and Shutdown activities.  
Date: 05/19/2006 (463933)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)  
Rqmt Prov: PERMIT TCEQ Permit #5171, Special Condition 1  
Description: Failure to prevent unauthorized emissions.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(8)  
Description: Failure to include in the final report, the preconstruction authorization number governing the facility involved in an emissions event.

F. Environmental audits.

Notice of Intent Date: 12/17/2002 (33128)  
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KM LIQUIDS TERMINALS, L.P.  
RN100224815**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0754-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KM Liquids Terminals, L.P. ("KM Liquids") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and KM Liquids presented this agreement to the Commission.

KM Liquids understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, KM Liquids agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon KM Liquids.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. KM Liquids owns and operates a petroleum product/segregated chemical transfer terminal at 530 Witter Street in Pasadena, Harris County, Texas (the "Plant").



2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on July 12, 2006, TCEQ staff documented that KM Liquids failed to prevent unauthorized emissions. Specifically, on May 31, 2006 an emissions event resulted when Tank 17-1 was filled with transmix, a mixture of oil and gasoline. The tank overflowed into a spill containment area releasing 11,221 pounds of volatile organic compounds ("VOC") for a period of 8 hours. The permit allowables of VOC are 0.14 pounds per hour. Since this emissions event was avoidable, KM Liquids failed to meet the demonstrations for an affirmative defense as described in 30 TEX. ADMIN. CODE § 101.222(a).
4. KM Liquids received notice of the violations on May 7, 2007.

## II. CONCLUSIONS OF LAW

1. KM Liquids is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, KM Liquids failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b), Air Permit No. 5171, Special Conditions No. 1.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against KM Liquids for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. KM Liquids has paid Five Thousand Dollars (\$5,000) of the administrative penalty and Five Thousand Dollars (\$5,000) shall be conditionally offset by KM Liquids completion of a Supplemental Environmental Project.

## III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. KM Liquids is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and KM Liquids compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.



Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KM Liquids Terminals, L.P., Docket No. 2007-0754-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. KM Liquids shall undertake the following technical requirements:

- a. KM Liquids shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, Five Thousand Dollars (\$5,000) of the assessed administrative penalty shall be offset with the condition that KM Liquids implement the SEP defined in Attachment A, incorporated herein by reference. KM Liquid's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement;
- b. Within 30 days after the effective date of this Agreed Order, design and implement improvements to procedures to ensure, to the extent practicable, the prevention of product overflow while filling storage tanks which caused the May 31, 2006 emissions event; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:



Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon KM Liquids. KM Liquids is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If KM Liquids fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, KM Liquids's failure to comply is not a violation of this Agreed Order. KM Liquids shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. KM Liquids shall notify the Executive Director within seven days after KM Liquids becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by KM Liquids shall be made in writing to the Executive Director. Extensions are not effective until KM Liquids receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to KM Liquids if the Executive Director determines that KM Liquids has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against KM Liquids in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.






## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

10/27/2007  
Date

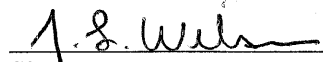
I, the undersigned, have read and understand the attached Agreed Order in the matter of KM Liquids Terminals, L.P. I am authorized to agree to the attached Agreed Order on behalf of KM Liquids Terminals, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, KM Liquids Terminals, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

July 16, 2007  
Date

James Wilson  
Name (Printed or typed)  
Authorized Representative of  
KM Liquids Terminals, L.P.

Regional EHS Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2007-0754-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>KM Liquids Terminals, L.P.</b>
<b>Payable Penalty Amount:</b>	<b>Ten Thousand Dollars (\$10,000)</b>
<b>SEP Amount:</b>	<b>Five Thousand Dollars (\$5,000)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program</b>
<b>Location of SEP:</b>	<b>Harris County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088



The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

